

Title 131 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 8 - LOAN CONDITIONS AND TERMS

001 Loans will be awarded to loan applicants only after the Finding of No Significant Impact public comment period has expired or a Categorical Exclusion has been issued and the Facility Plan or engineering report requirements are completed. All loans made under the CWSRF Act and the DWSRF Act shall be made only to loan applicants which meet the following requirements:

001.01 Pledge sufficient revenue sources for the repayment of the loan if such revenue may by law be pledged for that purpose;

001.02 Agree to maintain financial records according to generally accepted accounting principles and to conduct an audit of the project's financial records according to generally accepted government auditing standards;

001.03 Provide a written assurance, signed by an attorney, that the loan applicant has proper title, easements, and rights-of-way to the property on or through which the Wastewater Treatment Works, Public Water Supply System, Source Water Protection System or Nonpoint Source Control System is to be constructed or extended;

001.04 Provide a written notice of completion and Initiation of Operation of the facility;

001.05 Employ a registered professional engineer to provide and be responsible for engineering services on the project such as a facility plan, construction contract documents, observation of construction, and startup services.

001.06 Agree to provide access to site and records to the Department, its agents, or third parties for inspections and audits of the project;

001.07 Agree to promptly initiate project construction and establish a maximum time for initiation, after which the Department may withdraw financial assistance; and

001.08 Agree to submit an annual financial statement during the term of the loan.

002 Loans made under the CWSRF Act for the construction of Wastewater Treatment Works shall be made only to Municipalities or to Counties which meet the conditions of 001 of this section and, in addition, that:

002.01 Develop and implement a long term Wastewater Treatment Works management plan for the term of the loan, including yearly renewals.

002.02 Agree to operate and maintain the Wastewater Treatment Works so that it will function properly over the structural and material design life which shall not be less than twenty years;

002.03 Agree to provide a certified operator pursuant to Title 197 - Nebraska Department of Environmental Quality;

003 Loans made under the DWSRF Act for the construction of Public Water Supply Systems shall be made to loan applicants which meet the conditions of 001 of this section and, in addition, that:

003.01 Agree to provide a certified operator pursuant to Title 179 NAC 2 of DHHSR&L.

003.02 Agree to maintain Capacity Development to ensure compliance with the requirements of the Safe Drinking Water Act and Title 179 NAC 2 of DHHSR&L.

004 Loan terms shall include, but not be limited to, the following:

004.01 The term of the loan shall not exceed twenty years or the project design period if less than twenty years, except that in the case of a disadvantaged community for public water supply systems, the Department may provide an extended term for a loan, if the extended term terminates not later than the date that is 30 years after the date of Initiation of Operation, and does not exceed the expected design life of the project;

004.02 The interest rate shall be at or below market interest rates;

004.03 The annual principal and interest payment due from a loan recipient shall commence no later than one year after Initiation of Operation or no later than three years from the date of the loan contract, whichever occurs first. All loans shall be fully amortized not later than twenty years after the date of Initiation of Operation of the project; except in the case of disadvantaged communities which shall be fully amortized not later than thirty years after the date of Initiation of Operation of the project.

004.04 An administrative fee of 1% shall be assessed each year against the loan principal balance on the dates set by the Department, and payable on those dates;

004.05 The loan recipient shall immediately repay any loan when a grant has been received which covers costs provided for by such loan; and

004.06 The loan contract shall contain a loan repayment schedule which will be revised by the Department to reflect actual loan amount upon completion of the project.

005 Loan Contract.

005.01 All loan applicants applying for a loan under Title 131 shall sign a contractual document with the Department to be known as the loan contract.

005.02 The loan contract shall contain such terms as are necessary to ensure compliance with the CWSRF Act or the DWSRF Act and the Clean Water Act or Safe Drinking Water Act and any regulations adopted under such acts, when applicable, or additional terms as deemed necessary by the Department.

005.03 Delinquent payment penalty and penalty interest. Payments will be considered delinquent if not received within 15 days of the due date and will be assessed with a 5 percent administrative penalty. Penalty interest shall accrue at the rate of 1 percent per month of the amount of such delinquent payment from and after the due date until it is paid.

005.04 Security. The loan contract shall contain provisions designed to ensure proper security of compliance with loan terms and repayment of principal and interest. Such provisions may include one or more of the following:

005.04A The filing of a lien upon the project in the amount of the loan together with any interest thereon. Such lien to attach to all project facilities, equipment, easements, real property, and any property of any kind or nature which is associated with the project. The Department will file a statement of the lien, its amounts, terms, and a description of the project with the county register of deeds in the county which is the site of the project. The lien shall be valid until the principal loan amount with all accrued interest is paid in full or otherwise discharged. The lien shall be foreclosed in accordance with applicable state laws.

005.04B For substantial non-compliance with terms and conditions of the loan, the Department may demand that the remaining

balance of principal and interest become immediately due and payable.

005.04C Failure to pay any loan payment or other charges due under a loan contract within sixty days of the date due shall result in a deduction of an equal amount from the amount of aid to loan recipients which are Municipalities or Counties to which the Municipality or County is entitled under Neb. Rev. Stat. §§77-27,136 to 77-27,137.01. Such amount shall be paid directly to the applicable Fund, either the Drinking Water, Clean Water. or Land Acquisition and Source Water Loan Fund.

005.05 Before any action is taken under 005.04 of this chapter, the Department shall give thirty days written notice of the Department's intent to the loan recipient. The loan recipient shall have such thirty day time period to comply with violated contractual terms. If compliance is achieved, the loan shall revert to good standing.

006 All outstanding loans will be reviewed annually by the Department for compliance with loan payment provisions.

Enabling Legislation: Neb. Rev. Stat. §§81-15,152; 81-15,153; 81-15,155; 81-15,156; 81-15,158; 71-5321 - 71-5326.

Legal Citation: Title 131, Ch. 8, Nebraska Department of Environmental Quality

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